

## REMARKS

### Oath/Declaration

A new declaration that identifies the citizenship of each inventor is submitted herewith.

### Claim Rejections – 35 USC 102 and 103

Claims 9 and 10 were rejected under 35 U.S.C 102(b) as being anticipated by Li et al., US Patent No. 5,864,560 (hereinafter referred to as “Li”). Claim 11 was rejected under 35 U.S.C 103(a) as being unpatentable over Li in view of Applicants’ background of the invention. Applicants respectfully assert that claims 9-11 are allowable over Li. Claims 9 and 10 expressly require “whereby in-band signaling is used to reconfigure a modem transmitter”. Li teaches sending control information using out-of band signaling. The supervisory packet taught in Li uses an additional communication channel, not the same channel as the voice channel or data channel (see Li., col. 12, lines 45-48). The supervisor packet taught in Li is not “in-band” with either a data channel or a voice channel. Li’s “out-of-band” supervisory packet requires that a separate channel be wasted to send the supervisory packet. Note that using “in-band” signaling, as taught in the present invention, saves having to waste an extra channel as required by Li. Dependent claim 11 is allowable for at least the reasons given for claim 10.

Applicants believe the application is in condition for allowance which action is respectfully solicited. Please contact me if there are any issues regarding this communication or the current Application.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.  
Law Department

Customer Number: 23125

By:   
Susan C. Hill  
Attorney of Record  
Reg. No.: 35,896  
Telephone: (512) 996-6839  
Fax No.: (512) 996-6854